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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,657	11/25/2003	Siddhartha Panda	FIS920030133US1	7420
28264	7590	09/26/2007		
BOND, SCHOENECK & KING, PLLC			EXAMINER	
ONE LINCOLN CENTER			VINH, LAN	
SYRACUSE, NY 13202-1355			ART UNIT	PAPER NUMBER
			1765	
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			09/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/721,657	Applicant(s) PANDA ET AL.	
	Examiner Lan Vinh	Art Unit 1765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Baselmans et al (US 6,809,797)

Baselmanns discloses a method and apparatus for providing compensation to correct lithography error. The apparatus comprises a transmissive mask MA/filter, the MA/filter having a peripheral region/first region having the beam PB passed through/first transmittance (one beam passes through lens PL) (col 8, lines 9-40; fig. 1-2), a center/second region having the beam PB passed through/second transmittance (two beams pass through lens PL) is different from the transmittance at the peripheral region/first region (fig. 2)

Regarding claim 14, fig. 1 of Baselmans shows that the mask MA/filter having the peripheral/first region and center/second region located around a center which reads on the first region and second region are eccentric

Regarding claim 15, since Baselmans discloses the same filter having the same first and second regions for transmittance as the claimed filter under the principle of

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inherency, positioning Baselmans second region would have inherently reduced transmission in areas where said plasma etching process experiences magnetic filed cusping. It is noted that the claim language of "to reduce transmission in areas where said plasma etching process experiences magnetic filed cusping" is functional claim language. APPARATUS CLAIMS MUST BE STRUCTURALLY DISTINGUISHABLE FROM THE PRIOR ART >While features of an apparatus may be recited either structurally or functionally, claims directed to >an apparatus must be distinguished from the prior art in terms of structure rather than functional >In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997) (The absence of a disclosure in a prior art reference relating to function did not defeat the Board's finding of anticipation of claimed apparatus because the limitations at issue were found to be inherent in the prior art reference); see also In re Swinehart, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971); In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device is, not what a device does." Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 16-17 rejected under 35 U.S.C. 103(a) as being unpatentable over Baselmans et al (US 6,809,797) in view of Mathies et al (US 6,867,420)

Baselmans filter has been described above. Unlike the instant claimed inventions as per claims 16-17, Baselmans fails to disclose that the filter comprises optical quality glass having a layer of metallic coating of a predetermined thickness, the thickness of said layer of metallic coating varies from the first to the second region although Baselmans discloses that the beam passing through the mask MA/filter

Mathies discloses an optical system comprises a optical interference filter 22, the filter is formed by depositing TiO/metallic coating layer 32 of selected thickness on a quartz or glass substrate (col 3, lines 57-61)

Thus, one skilled in the art at the time the invention was made would have found it obvious to modify Baselmans filter by using a filter comprising optical quality glass having a layer of metallic coating of a predetermined thickness to form a metal light shield in order to minimize the effect of laser scattered light as taught by Mathies (col 4, lines 45-52)

Response to Arguments

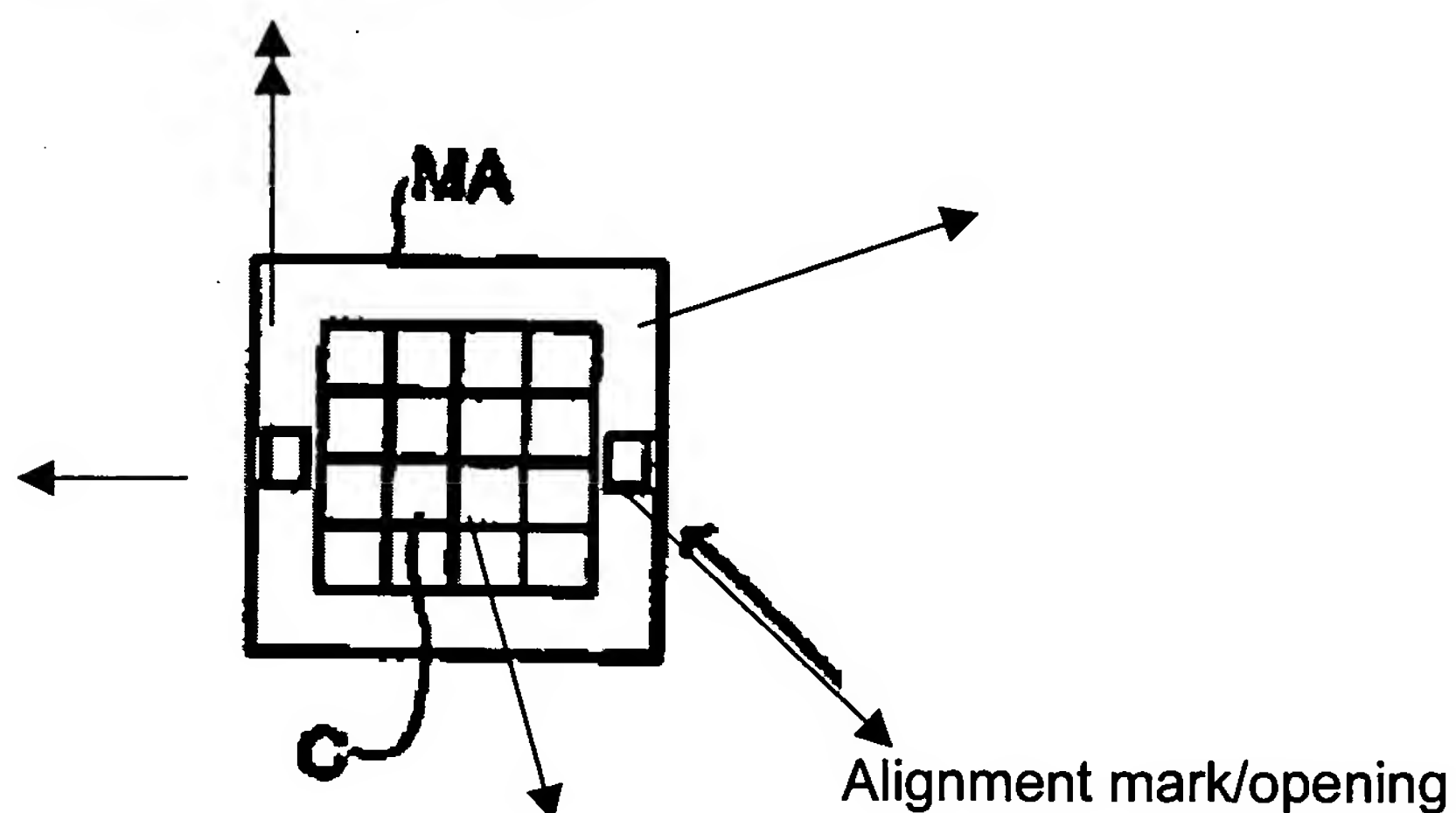
3. Applicant's arguments filed 5/7/2007 have been fully considered but they are not persuasive.

The applicants argue that the structure identified by the Examiner in Baselmans is not a filter having two different regions of transmittance because a closer look at Fig. 2 of Baselman reveals that the aberrations occur at the other side of the lens (PL), thus, the

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"rays" shown above PL in Fig. 2 are in fact all passing through, as the aberrations are also shown exiting from the outbound side of the lens and the depiction of aberrations in a lens is not the same as the claimed filter having first region having a first transmittance and a second region having a second transmittance that is different than the first. This argument is unpersuasive because the transmissive mask MA is the structure clearly identified in the office action as the claimed filter (paragraph 1 of the office action) and a closer look at the mask MA in fig. 1 and 2 of Baselman reveals:

Opaque peripheral region

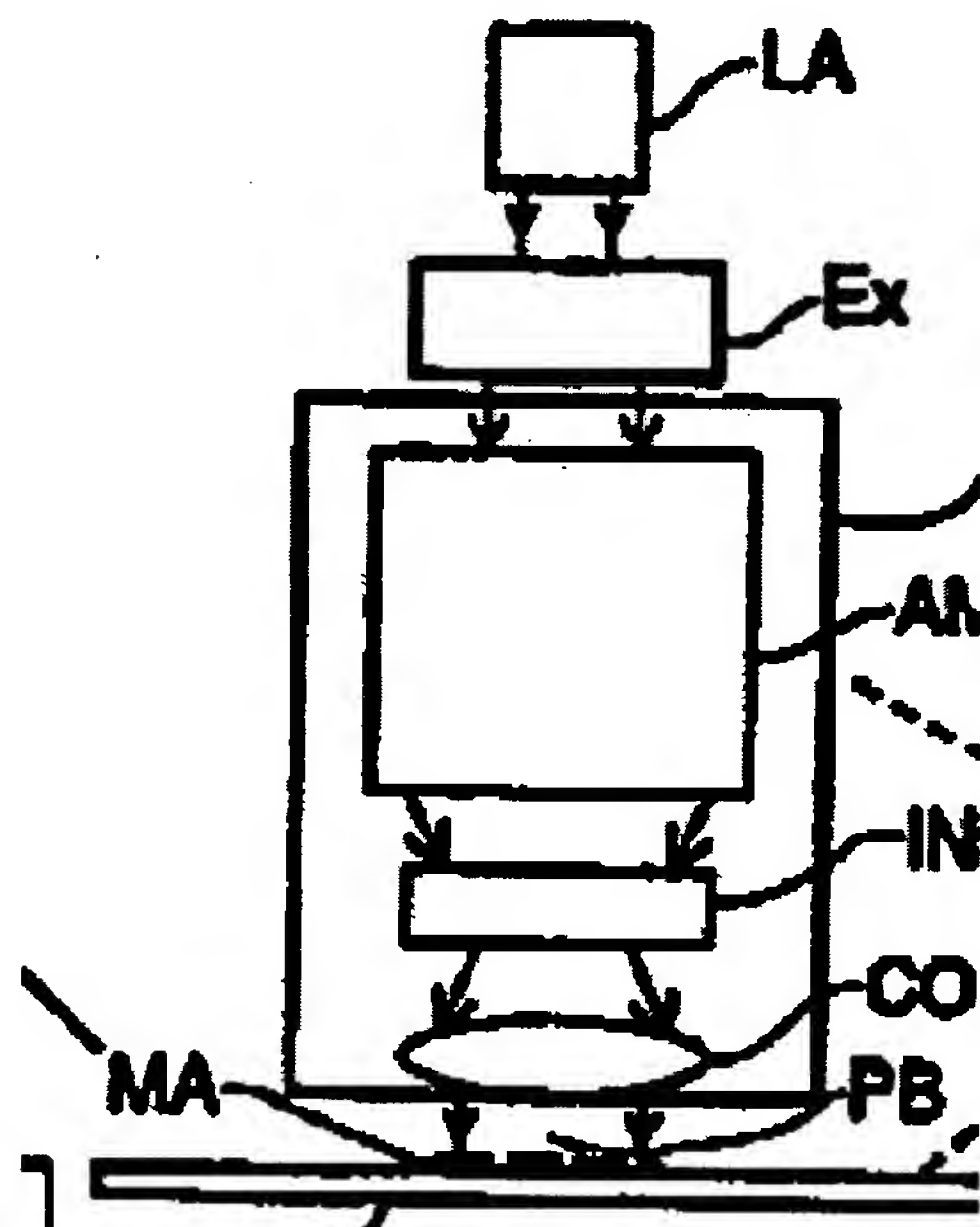


Center transparent region

various hybrid mask types. Placement of such a mask in the radiation beam causes selective transmission (in the case of a transmissive mask) or reflection (in the case of a reflective mask) of the radiation impinging on the mask. according to

Baselman also discloses

(col 1, lines 34-38).



The opaque peripheral region having the alignment mark/opening would only have allowed rays in the beam pass through the alignment mark/opening, which reads on the claimed first region having a first transmittance. The transparent central region of the mask MA would have allowed more "rays" in the beam PB pass through which reads on the claimed second region comprises a center portion of the filter, the second region having second transmittance that is different than said first transmittance. Thus, it is maintained that the mask MA in Baselman reads on the claimed filter as recited in claims 11-13. The applicants also argue that Baselman does not disclose any filtering of the radiance. This argument is unpersuasive because it is noted that APPARATUS CLAIMS MUST BE STRUCTURALLY DISTINGUISHABLE FROM THE PRIOR ART

>While features of an apparatus may be recited either structurally or functionally, claims directed to >an apparatus must be distinguished from the prior art in terms of structure rather than functional >In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429,

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1431-32 (Fed. Cir. 1997) (The absence of a disclosure in a prior art reference relating to function did not defeat the Board's finding of anticipation of claimed apparatus because the limitations at issue were found to be inherent in the prior art reference); see also In re Swinehart, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971); In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device is, not what a device does." Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528

Therefore, the rejection(s) of claims 11-15 under U.S.C 102(e) as being anticipated by Baselman (US 6,809,797) are maintained in this rejection

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Vinh whose telephone number is 571 272 1471.

The examiner can normally be reached on M-F 8:30-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine Norton can be reached on 571 272 1465. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



LV

September 21, 2007